
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

ERIC MARK KENYON,

Plaintiff,

v.

STATE OF UTAH et al.,

Defendants.

**MEMORANDUM DECISION &
ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT**

Case No. 2:24-CV-803 AMA

District Judge Ann Marie McIff Allen

On January 6, 2025, this action was dismissed without prejudice "[f]or Plaintiff's failure to follow the Court's orders and prosecute this case," after he failed to pay his \$10.83 initial partial filing fee (IPFF) and respond to a consequent order to show cause. (ECF Nos. 7, 10.) Nearly three months later, Plaintiff moved to "reopen case," arguing he was denied "due process" when the Court did not "allow[] the proper amount of time to set up account information." (ECF No. 12.)

The Court interprets Plaintiff's motion as a request for relief from judgment under Federal Rule of Civil Procedure 60(b), which states in relevant part, "On motion and just terms, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons [of] mistake, inadvertence, surprise, or excusable neglect" Fed. R. Civ. P. 60(b)(1). Perhaps Plaintiff's argument could fit under the reason of mistake, suggesting the Court mistakenly did not allow enough time for him "to set up [his] account information." (ECF No. 12.) But-- considering Plaintiff's account information was "set up" from the time the Complaint was filed-- the docket contradicts any such argument by Plaintiff. For instance, Plaintiff included with his

Complaint his account information, attaching his account statement, (ECF Nos. 1-3); the Court's October 28, 2024 Order authorized the inmate-account office to file Plaintiff's Financial Certificate (FC) and IPFF, (ECF No. 4); the inmate-account office filed the FC, including the amount of the IPFF, within two days of the Order, (ECF Nos. 4-5); Plaintiff was given extra time to file his IPFF through the additional thirty days given by the Order to Show Cause, (ECF No. 7); and, after the Order to Show Cause was returned to sender because Plaintiff's address changed, the Court re-mailed the Order to Plaintiff's new address, (ECF Nos. 7-9). In short, during the ten weeks between the submission and dismissal of the Complaint, Plaintiff was given adequate chance to comply with the requirement to file his \$10.83 IPFF. Plaintiff therefore has not shown that "mistake, inadvertence, surprise, or excusable neglect," Fed. R. Civ. P. 60(b)(1), resulted in dismissal of this action.

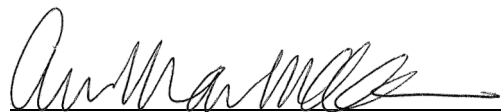
IT IS THEREFORE ORDERED as follows:

(1) Plaintiff's motion for relief from judgment is **DENIED**. (ECF No. 12.) Plaintiff should bear in mind though that, as this action was dismissed without prejudice, he is welcome to refile his complaint within a new action.

(2) This action remains closed.

DATED this 10th day of April, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Ann Marie McIff Allen', written over a horizontal line.

JUDGE ANN MARIE MCIFF ALLEN
United States District Court